

AMENDED IN SENATE JUNE 29, 2011

CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

ASSEMBLY BILL

No. 188

**Introduced by Assembly Member ~~Block~~ Members *Block and Butler*
(Coauthors: Assembly Members Blumenfield, Fletcher, Hagman,
and Jeffries)**

January 25, 2011

An act to amend Sections 205.5 and 279 of the Revenue and Taxation Code, relating to taxation, ~~to take effect immediately, tax levy.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 188, as amended, Block. Property tax exemption: principal residence: veterans and their unmarried surviving spouses.

Existing property tax law provides, pursuant to the authorization of the California Constitution, for the exemption from property taxation of the principal residence of a disabled veteran, a veteran's spouse, and the unmarried surviving spouse, in the case in which the veteran has, as a result of a service-connected disease or injury, died while on active duty in military service. Existing property tax law specifies that property is a veteran's principal residence if the veteran would principally reside at that property if not for his or her confinement to a hospital or other care facility.

This bill would, beginning with the lien date for the 2012–13 fiscal year and for each fiscal year thereafter, specify that property is an unmarried surviving spouse's principal residence if the unmarried surviving spouse would principally reside at that property if not for his or her confinement to a hospital or other care facility. This bill would also correct an erroneous cross-reference in this provision. *This bill would additionally make technical, nonsubstantive changes that would*

consolidate the provisions relating to the date when property becomes eligible for the disabled veterans' exemption, and would make other conforming changes. This bill would also make other clarifying changes, including clarifying that the exemption terminates for a unmarried surviving spouse of a disabled veteran when that surviving spouse remarries.

~~Existing law provides that a disabled veteran's property tax exemption, once granted, remains in continuous effect unless, among other things, the owner does not occupy the property as his or her principal place of residence on the property tax lien date. Existing law specifies, however, that property owned by a disabled veteran who is confined to a hospital or other care facility, continues to be the principal residence of the veteran on the property tax lien date, if that property was the principal residence of the owner immediately prior to that confinement.~~

~~This bill would make this provision applicable to the unmarried surviving spouse of a deceased veteran.~~

~~Section 2229 of the Revenue and Taxation Code requires the Legislature to reimburse local agencies annually for certain property tax revenues lost as a result of any exemption or classification of property for purposes of ad valorem property taxation.~~

~~This bill would provide that, notwithstanding Section 2229 of the Revenue and Taxation Code, no appropriation is made and the state shall not reimburse local agencies for property tax revenues lost by them pursuant to the bill.~~

~~This bill would take effect immediately as a tax levy.~~

Vote: majority. Appropriation: no. Fiscal committee: *yes-no*.
State-mandated local program: *yes-no*.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 205.5 of the Revenue and Taxation Code
- 2 is amended to read:
- 3 205.5. (a) Property that constitutes the principal place of
- 4 residence of a veteran, that is owned by the veteran, the veteran's
- 5 spouse, or the veteran and the veteran's spouse jointly, is exempted
- 6 from taxation on that part of the full value of the residence that
- 7 does not exceed one hundred thousand dollars (\$100,000), as
- 8 adjusted for the relevant assessment year as provided in subdivision
- 9 (h), if the veteran is blind in both eyes, has lost the use of two or
- 10 more limbs, or if the veteran is totally disabled as a result of injury

1 or disease incurred in military service. The one hundred thousand
2 dollar (\$100,000) exemption shall be one hundred fifty thousand
3 dollars (\$150,000), as adjusted for the relevant assessment year as
4 provided in subdivision (h), in the case of an eligible veteran whose
5 household income does not exceed the amount of forty thousand
6 dollars (\$40,000), as adjusted for the relevant assessment year as
7 provided in subdivision (g).

8 (b) (1) For purposes of this section, “veteran” means either of
9 the following:

10 (A) A veteran as specified in subdivision (o) of Section 3 of
11 Article XIII of the California Constitution without regard to any
12 limitation contained therein on the value of property owned by the
13 veteran or the veteran’s spouse.

14 (B) Any person who would qualify as a veteran pursuant to
15 paragraph (1) except that he or she has, as a result of a
16 service-connected injury or disease, died while on active duty in
17 military service. The United States Department of Veterans Affairs
18 shall determine whether an injury or disease is service connected.

19 (2) For purposes of this section, property is deemed to be the
20 principal place of residence of a veteran, disabled as described in
21 subdivision (a), who is confined to a hospital or other care facility,
22 if that property would be that veteran’s principal place of residence
23 were it not for his or her confinement to a hospital or other care
24 facility, provided that the residence is not rented or leased to a
25 third party. A family member that resides at the residence is not
26 considered to be a third party.

27 (c) (1) Property that is owned by, and that constitutes the
28 principal place of residence of, the unmarried surviving spouse of
29 a deceased veteran is exempt from taxation on that part of the full
30 value of the residence that does not exceed one hundred thousand
31 dollars (\$100,000), as adjusted for the relevant assessment year as
32 provided in subdivision (h), in the case of a veteran who was blind
33 in both eyes, had lost the use of two or more limbs, or was totally
34 disabled provided that either of the following conditions is met:

35 (A) The deceased veteran during his or her lifetime qualified
36 in all respects for the exemption or would have qualified for the
37 exemption under the laws effective on January 1, 1977, except
38 that the veteran died prior to January 1, 1977.

39 (B) The veteran died from a disease that was service connected
40 as determined by the United States Department of Veterans Affairs.

1 The one hundred thousand dollar (\$100,000) exemption shall
2 be one hundred fifty thousand dollars (\$150,000), as adjusted for
3 the relevant assessment year as provided in subdivision (h), in the
4 case of an eligible unmarried surviving spouse whose household
5 income does not exceed the amount of forty thousand dollars
6 (\$40,000), as adjusted for the relevant assessment year as provided
7 in subdivision (g).

8 (2) Commencing with the 1994–95 fiscal year, property that is
9 owned by, and that constitutes the principal place of residence of,
10 the unmarried surviving spouse of a veteran as described in
11 subparagraph (B) of paragraph (1) of subdivision (b) is exempt
12 from taxation on that part of the full value of the residence that
13 does not exceed one hundred thousand dollars (\$100,000), as
14 adjusted for the relevant assessment year as provided in subdivision
15 (h). The one hundred thousand dollar (\$100,000) exemption shall
16 be one hundred fifty thousand dollars (\$150,000), as adjusted for
17 the relevant assessment year as provided in subdivision (h), in the
18 case of an eligible unmarried surviving spouse whose household
19 income does not exceed the amount of forty thousand dollars
20 (\$40,000), as adjusted for the relevant assessment year as provided
21 in subdivision (g).

22 (3) Beginning with the 2012–13 fiscal year and for each fiscal
23 year thereafter, property is deemed to be the principal place of
24 residence of the unmarried surviving spouse of a deceased veteran,
25 who is confined to a hospital or other care facility, if that property
26 would be the unmarried surviving spouse’s principal place of
27 residence were it not for his or her confinement to a hospital or
28 other care facility, provided that the residence is not rented or
29 leased to a third party. For purposes of this paragraph, a family
30 member who resides at the residence is not considered to be a third
31 party.

32 (d) As used in this section, “property that is owned by a veteran”
33 or “property that is owned by the veteran’s unmarried surviving
34 spouse” includes all of the following:

35 (1) Property owned by the veteran with the veteran’s spouse as
36 a joint tenancy, tenancy in common, or as community property.

37 (2) Property owned by the veteran or the veteran’s spouse as
38 separate property.

1 (3) Property owned with one or more other persons to the extent
2 of the interest owned by the veteran, the veteran's spouse, or both
3 the veteran and the veteran's spouse.

4 (4) Property owned by the veteran's unmarried surviving spouse
5 with one or more other persons to the extent of the interest owned
6 by the veteran's unmarried surviving spouse.

7 (5) So much of the property of a corporation as constitutes the
8 principal place of residence of a veteran or a veteran's unmarried
9 surviving spouse when the veteran, or the veteran's spouse, or the
10 veteran's unmarried surviving spouse is a shareholder of the
11 corporation and the rights of shareholding entitle one to the
12 possession of property, legal title to which is owned by the
13 corporation. The exemption provided by this paragraph shall be
14 shown on the local roll and shall reduce the full value of the
15 corporate property. Notwithstanding any provision of law or
16 articles of incorporation or bylaws of a corporation described in
17 this paragraph, any reduction of property taxes paid by the
18 corporation shall reflect an equal reduction in any charges by the
19 corporation to the person who, by reason of qualifying for the
20 exemption, made possible the reduction for the corporation.

21 (e) For purposes of this section, being blind in both eyes means
22 having a visual acuity of 5/200 or less, or concentric contraction
23 of the visual field to 5 degrees or less; losing the use of a limb
24 means that the limb has been amputated or its use has been lost
25 by reason of ankylosis, progressive muscular dystrophies, or
26 paralysis; and being totally disabled means that the United States
27 Department of Veterans Affairs or the military service from which
28 the veteran was discharged has rated the disability at 100 percent
29 or has rated the disability compensation at 100 percent by reason
30 of being unable to secure or follow a substantially gainful
31 occupation.

32 (f) An exemption granted to a claimant in accordance with the
33 provisions of this section shall be in lieu of the veteran's exemption
34 provided by subdivisions (o), (p), (q), and (r) of Section 3 of Article
35 XIII of the California Constitution and any other real property tax
36 exemption to which the claimant may be entitled. No other real
37 property tax exemption may be granted to any other person with
38 respect to the same residence for which an exemption has been
39 granted under the provisions of this section; provided, that if two
40 or more veterans qualified pursuant to this section coown a property

1 in which they reside, each is entitled to the exemption to the extent
2 of his or her interest.

3 (g) Commencing on January 1, 2002, and for each assessment
4 year thereafter, the household income limit shall be compounded
5 annually by an inflation factor that is the annual percentage change,
6 measured from February to February of the two previous
7 assessment years, rounded to the nearest one-thousandth of 1
8 percent, in the California Consumer Price Index for all items, as
9 determined by the California Department of Industrial Relations.

10 (h) Commencing on January 1, 2006, and for each assessment
11 year thereafter, the exemption amounts set forth in subdivisions
12 (a) and (c) shall be compounded annually by an inflation factor
13 that is the annual percentage change, measured from February to
14 February of the two previous assessment years, rounded to the
15 nearest one-thousandth of 1 percent, in the California Consumer
16 Price Index for all items, as determined by the California
17 Department of Industrial Relations.

18 ~~SEC. 2. Section 279 of the Revenue and Taxation Code is~~
19 ~~amended to read:~~

20 ~~279. (a) A claim for the disabled veterans' property tax~~
21 ~~exemption described in Section 205.5 filed by the owner of a~~
22 ~~dwelling, once granted, shall remain in continuous effect unless~~
23 ~~any of the following occurs:~~

24 ~~(1) Title to the property changes.~~

25 ~~(2) The owner does not occupy the dwelling as his or her~~
26 ~~principal place of residence on the lien date.~~

27 ~~(A) If a veteran or an unmarried surviving spouse of a deceased~~
28 ~~veteran is, on the lien date, confined to a hospital or other care~~
29 ~~facility but principally resided at a dwelling immediately prior to~~
30 ~~that confinement, the veteran or the unmarried surviving spouse~~
31 ~~of a deceased veteran will be deemed to occupy that same dwelling~~
32 ~~as his or her principal place of residence on the lien date, provided~~
33 ~~that the dwelling has not been rented or leased as described in~~
34 ~~Section 205.5.~~

35 ~~(B) If a person receiving the disabled veterans' exemption is~~
36 ~~not occupying the dwelling on the lien date because the dwelling~~
37 ~~was damaged in a misfortune or calamity, the person will be~~
38 ~~deemed to occupy that same dwelling as his or her principal place~~
39 ~~of residence on the lien date, provided the person's absence from~~
40 ~~the dwelling is temporary and the person intends to return to the~~

1 dwelling when possible to do so. Except as provided in
2 subparagraph (C), when a dwelling has been totally destroyed, and
3 thus no dwelling exists on the lien date, the exemption provided
4 by Section 205.5 is not applicable until the structure has been
5 replaced and is occupied as a dwelling.

6 ~~(C) A dwelling that was totally destroyed in a disaster for which~~
7 ~~the Governor proclaimed a state of emergency, that qualified for~~
8 ~~the exemption provided by Section 205.5 and has not changed~~
9 ~~ownership since the disaster, will be deemed occupied by the~~
10 ~~person receiving a disabled veterans' exemption on the lien date~~
11 ~~provided the person intends to reconstruct a dwelling on the~~
12 ~~property and occupy the dwelling as his or her principal place of~~
13 ~~residence when it is possible to do so.~~

14 ~~(3) The property is altered so that it is no longer a dwelling.~~

15 ~~(4) The veteran is no longer disabled as defined in Section 205.5.~~

16 ~~(b) The assessor of each county shall verify the continued~~
17 ~~eligibility of each person receiving a disabled veterans' exemption,~~
18 ~~and shall provide for a periodic audit of, and establish a control~~
19 ~~system to monitor, disabled veterans' exemption claims.~~

20 ~~SEC. 3. Notwithstanding Section 2229 of the Revenue and~~
21 ~~Taxation Code, no appropriation is made by this act and the state~~
22 ~~shall not reimburse any local agency for any property tax revenues~~
23 ~~lost by it pursuant to this act.~~

24 ~~SEC. 4. This act provides for a tax levy within the meaning of~~
25 ~~Article IV of the Constitution and shall go into immediate effect.~~

26 ~~SEC. 2. Section 279 of the Revenue and Taxation Code is~~
27 ~~amended to read:~~

28 ~~279. (a) A~~ *Subject to the provisions regarding cancellations*
29 *and the limitation periods on refunds, property becomes eligible*
30 *for the disabled veterans' property tax exemption, as described in*
31 *Section 205.5, as of:*

32 *(1) The effective date of a disability rating, as determined by*
33 *the United States Department of Veterans Affairs, that qualifies*
34 *the claimant for the exemption.*

35 *(2) The date a qualified claimant purchases a property that*
36 *constitutes the principal place of residence, provided residency is*
37 *established within 90 days of purchase.*

38 *(3) The date a qualified claimant establishes residency at a*
39 *property owned by the claimant or the spouse, as specified in*
40 *subdivision (a) of Section 205.5.*

1 (4) *The date the veteran died, as a result of a service-connected*
2 *injury or disease, in the case where the unmarried surviving spouse*
3 *is the claimant.*

4 (b) A claim for the disabled veterans' property tax exemption
5 ~~described in Section 205.5~~ filed by ~~the owner of a dwelling a~~
6 *qualified claimant*, once granted, shall remain in continuous effect
7 unless any of the following occurs:

8 (1) Title to the property changes.

9 (2) The owner does not occupy the dwelling as his or her
10 principal place of ~~residence on the lien date~~ *residence*.

11 (A) If a ~~veteran is, on the lien date, the claimant~~ is confined to
12 a hospital or other care facility but principally resided at a dwelling
13 immediately prior to that confinement, ~~the veteran claimant~~ will
14 be deemed to occupy that same dwelling as his or her principal
15 place of residence on the lien date, provided that the dwelling has
16 not been rented or leased as described in Section 205.5.

17 (B) If a person receiving the disabled veterans' exemption is
18 not occupying the dwelling ~~on the lien date~~ because the dwelling
19 was damaged in a misfortune or calamity, the person will be
20 deemed to occupy that same dwelling as his or her principal place
21 ~~of residence on the lien date, residence~~, provided the person's
22 absence from the dwelling is temporary and the person intends to
23 return to the dwelling when possible to do so. Except as provided
24 in subparagraph (C), when a dwelling has been totally destroyed,
25 and thus no dwelling ~~exists on the lien date, the exists, the~~
26 exemption provided by Section 205.5 is not applicable until the
27 structure has been replaced and is occupied as a dwelling.

28 (C) A dwelling that was totally destroyed in a disaster for which
29 the Governor proclaimed a state of emergency, that qualified for
30 the exemption provided by Section 205.5 and has not changed
31 ownership since the disaster, will be deemed occupied by the
32 person receiving a disabled veterans' exemption ~~on the lien date~~
33 provided the person intends to reconstruct a dwelling on the
34 property and occupy the dwelling as his or her principal place of
35 residence when it is possible to do so.

36 (3) The property is altered so that it is no longer a dwelling.

37 (4) The veteran is no longer disabled as defined in Section 205.5.

38 (5) *The unmarried surviving spouse claimant remarries.*

39 (b)

- 1 (c) The assessor of each county shall verify the continued
- 2 eligibility of each person receiving a disabled veterans' exemption,
- 3 and shall provide for a periodic audit of, and establish a control
- 4 system to monitor, disabled veterans' exemption claims.

O